IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mohd. Farookh. Versus Smt. Farzana.

S.B. Criminal Misc. Petition No. 1628/2006
against the order dated 27-7-2006 passed
by the Sessions Judge, Sirohi, in Criminal
Revision No. 20/2006.

...

Date of Order: December 12, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.Shambhoo Singh, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

The order dated 27-7-2006 passed by the Sessions Judge, Sirohi (for short, "the Revisional Court" hereinafter) has been impugned by the present petitioner by filing the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter).

I have heard learned counsel for the petitioner. Carefully gone through the orders of the trial Court as well as the Revisional Court.

On an application under Section 125 of the Code filed by non-petitioner No.2 Smt. Farzana before the Judicial Magistrate, Sheoganj, district Sirohi (for short, "the trial Court"

hereinafter), the trial Court, vide order dated 30-1-2006, allowed the application filed by the non-petitioner under Section 125 of the Code and granted monthly allowance of maintenance @ Rs.500/- from the date of the order. On a revision, the Revisional Court did not find any error in the order of the trial Court. Though both the parties, i.e. the petitioner and the non-petitioner, went in revision but the revision petition filed by the non-petitioner seeking enhancement of maintenance allowance and the revision petition filed by the petitioner seeking setting aside the order of the trial Court granting maintenance in favour of the non-petitioner and against the petitioner, were dismissed.

On careful perusal of the orders passed by both the Courts below, in my view, the courts below were justified in granting maintenance as there are sufficient material, on the basis of which it can be concluded that the petitioner despite having sufficient means, failed to maintain and neglected the non-petitioner. It has not been disputed that the non-petitioner is the legally wedded wife of the present petitioner.

Learned counsel for the petitioner submits that the marriage between the parties has not been consummated. Be that as it may, as per the statement of the non-petitioner and other evidence produced before the trial Court, as also from the order of the trial Court while deciding point No.2, it appears that after the marriage, for about two/three months, the non-

petitioner lived at her in-laws house, however, subsequently she was subjected to harassment and cruelty by her husband, father-in-law and mother-in-law in connection with demand of dowry, for which a criminal case was instituted against them for the offences under Sections 498-A and 406 IPC. Be that as it may, the petitioner, being the husband of the non-petitioner, is legally liable to maintain her and, therefore, it cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of the Court.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs